IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1085 OF 2006
IN
CRIMINAL APPEAL NO.920 OF 2006

Balu Trimbak Gode ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr.Z.M.Avhad for the Applicant
Mr.S.V.More, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : NOVEMBER 28,2006.

P.C.:

1. Heard learned Advocate for the Applicant and the learned A.P.P. for State. The conviction of the Applicant is for offence under section 376 (2) (g), 366 read with section 34 of the Indian Penal Code. He has been also convicted for offence under section 506 of the Indian Penal Code.

2. I have perused the impugned Judgment and Order. I have also perused the Record and Proceedings. The submission of the Applicant is that the prosecution has not proved that the age of the prosecutrix was below 16 years. The case of the prosecution is that the age of the prosecutrix was 14 years. Apart from the delay in lodging the F.I.R., the evidence on record prima facie suggests that the age of the prosecutrix is more than 16 years. The evidence of P.W.No.6 indicates a possibility that her age may be even 18 years and more. The Radiological examination discloses that her age may be between

14 and 17 years. The father of the prosecutrix in his evidence disclosed the date of birth of the prosecutrix. However, in the cross examination he stated that he was unable to give date of birth of any of his other children.

3. Considering the facts and circumstances of the case, the Applicant is entitled to be enlarged on bail subject to stringent conditions.

4. Hence, I pass the following order :

i) The Applicant shall be enlarged on the bail in the sum of Rs.10,000/- (Rupees ten thousand) with one or two local sureties in the like amount.

ii) Bail is granted subject to the condition that the Applicant will not enter the Taluka Igatpuri, District Nasik till the final disposal of the Appeal.

iii) The order granting bail will be given effect only after the Applicant furnishes complete and detailed address of his place of residence where he proposes to reside after he is enlarged on bail.

iv) The order granting bail will be given effect only

after the Applicant deposits the entire fine amount.

v) Bail is granted subject to the condition that the Applicant will report to concerned local Police Station within the jurisdiction of which he proposes to stay after he is enlarged on bail. He will report to the said Police Station on first and third Saturday of every calendar month till the final disposal of the Appeal.

JUDGE